

**INTERNATIONAL PRELIMINARY EXAMINATION REPORT**
(PCT Article 36 and Rule 70)

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| Applicant's or agent's file reference P61705PC00 | | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) | |
| International application No. PCT/NL 03/00660 | International filing date (day/month/year) 26.09.2003 | Priority date (day/month/year) 27.09.2002 | |
| International Patent Classification (IPC) or both national classification and IPC B32B27/32 | | | |
| Applicant LANKHORST INDUTECH B.V. et al. | | | |
| <p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 3 sheets.</p> | | | |
| <p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p> | | | |
| Date of submission of the demand 26.04.2004 | | Date of completion of this report 29.11.2004 | |
| Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | | Authorized Officer Foulger, C Telephone No. +49 89 2399-2944  | |

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International application No. **PCT/NL 03/00660**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-19 as originally filed

Claims, Numbers

1-16 received on 28.09.2004 with letter of 28.09.2004

Drawings, Sheets

1/1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
- (Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 16

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 16 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Yes: Claims

No: Claims

No: 1-7, 10, 11, 13-15

Inventive step (IS)

Yes: Claims

No: Claims

No: 8,9,12

Industrial applicability (IA)

Yes: Claims

No: Claims

Yes: 1-15

2. Citations and explanations

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see separate sheet

Re Item III : Non-establishment of opinion with regard to novelty, inventive step and industrial applicability;

Claim 16 does not meet the requirements of Article 6 PCT, in that, the matter for which protection is sought is not clearly defined.

Claim 16 attempts to define the subject-matter in terms of the result to be achieved ("for improving the mechanical strength..."), which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result.

Moreover, claim 16 discloses a use and depends on method claim 1. It is however formulated as the "use of a tape as defined in any one of the claims 1 or 5 to 9...". As already stated, claim 1 discloses a method for reinforcing an article, not a tape.

Consequently, no opinion will be given with regard to the novelty and inventive step of claim 16.

Re Item V : Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement;

1. The application does not meet the requirements of the PCT, because the subject-matter of method claim 1 is not new in the sense of Article 33(2) PCT, for the following reasons:
 - 1.1. Document EP 0 366 210 (D1), which is considered as the closest available prior art document, discloses (applying the wording of present claim 1) a method for reinforcing an article (see column 4, lines 13 to 17) comprising attaching to at least one surface of said article a tape, film or yarn of a drawn thermoplastic polymer (claim 1).
 - 1.2. In D1, the laminate is spirally wound beyond a fracture zone of a pipe. The laminate is obviously fixed to the pipe otherwise it would fall off or move what is not intended in D1.

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- 1.3. Consequently, D1 discloses all the features of independent claim 1.
- 1.4. Document US-A-5 578 370 (D2; see claims 1 and 28) also discloses a method according to claim 1.
2. The subject-matter of dependent claims 2 to 12 does not contain any features which, in combination with the features of independent claim 1 to which they refer, meet the requirements of the PCT in respect of novelty and inventive step, the reasons being as follows:
 - 2.1. D2 discloses a method according to dependent claims 2 to 6 (claim 17 and 28), 7 (see column 7, paragraph 2) and a covering layer as disclosed in dependent claims 10 and 11 (column 1, paragraph 3).
Moreover, the additional features of dependent method claim 7 are known of D1.
 - 2.2. Additionally, the subject-matter of dependent claims 8, 9 and 12 does not seem to involve an inventive step.
3. The subject-matter of independent product claim 13 which discloses a "reinforced article" is generally known. The subject-matter of independent product claim 13 is thus not new.
4. The subject-matter of independent product claim 14 is also known from D1 and D2 (Article 33(2) PCT).
5. Dependent product claim 15 discloses an article selected from the group consisting of articles for the automotive or the fluid transportation. D1 and D2 disclose such articles (column 4, lines 13 and 18).

Remarks:

1. The features of the claims are not provided with reference signs placed in

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parentheses (Rule 6.2(b) PCT).

2. The subject-matter of independent product claims 13 and 14 and dependent claim 15 is not clear (Article 6 PCT) because claims 13 and 14 are drafted as product-by-process claims.

A claim defining a product in terms of a process is to be construed as a claim to the product as such (see Guidelines Part II, 5.26), which consequence is that claims for products defined in terms of a process of manufacture are admissible only if the products as such fulfil the requirements for patentability, i.e. that they are new and inventive.

The product produced by the method according to claim 1 is considered to be identical to the product produced by the method according to D1, both methods being identical.

Consequently, in order to distinguish the claimed product from the products according to the available prior art documents, the claimed products should be defined by proper product features.